

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

MICHAEL DUANE SMITH,)	Case No. 05-70467
)	
Plaintiff.)	Arthur J. Tarnow
)	District Judge
v.)	
)	R. Steven Whalen
CITY OF MOUNT CLEMENS, et al.,)	Magistrate Judge
)	
Defendants.)	

**ORDER ADOPTING REPORT AND RECOMMENDATION [DE 39] AND DENYING
PLAINTIFF'S MOTION FOR DEFAULT JUDGMENT [DE 12]**

Before the Court is Plaintiff's motion for default judgment [DE 12]. The Court referred Plaintiff's motion to Magistrate Judge Whalen for report and recommendation. The Magistrate Judge has filed a report and recommendation (R&R) recommending that Plaintiff's motion be denied because the grounds for the motion are mistaken, specifically, because Defendants have filed answers to Plaintiff's complaint. The Court agrees with the Magistrate Judge. Therefore,

IT IS HEREBY ORDERED that the report and recommendation [DE 39] is ADOPTED as the findings and conclusions of the Court.

IT IS FURTHER ORDERED that Plaintiff's motion for default judgment [DE 12] is DENIED.

SO ORDERED.

s/Arthur J. Tarnow
Arthur J. Tarnow
United States District Judge

05-70467

Dated: March 20, 2006

I hereby certify that a copy of the foregoing document was served upon counsel of record on March 20, 2006, by electronic and/or ordinary mail.

s/Theresa E. Taylor
Case Manager